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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,541	03/19/2004	Peter S. Vosbikian	QUK-003	7458
26689 7590 12/05/2007 WILDMAN HARROLD ALLEN & DIXON LLP 225 WEST WACKER DRIVE, SUITE 2800 CHICAGO, IL 60606			EXAMINER MENEZES, MARCUS	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 12/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/804,541	Applicant(s) VOSBIKIAN ET AL.	
	Examiner Marcus Menezes	Art Unit 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-24 and 27-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 46-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-24 and 27-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

***Response to Amendment***

1. The amendment to the claims filed on 9/28/2007 does not comply with the requirements of 37 CFR 1.121(c) because claims 24, 34, and 43 are identified as "new". Original claims 24, 34, and 43 were cancelled. Once a claim is cancelled, that claim number is always cancelled – any new claim must be added with a new claim number that immediately follows the highest existing claim number. In this case, claim 24 should be claim 68, claim 34 should be claim 69, and claim 43 should be claim 70. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims*. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing*. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). **The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.**

(2) *When claim text with markings is required*. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims

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having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

**(5) Reinstatement of previously canceled claim. A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.**

2. Normally this amendment would be considered non-compliant and would not be considered; however, examiner understands applicant's intent, and appreciates applicant's professionalism, and is thus making an exception for this action only and considering the amendment. In this action, the claims are referred to by the number listed by applicant. However, any response MUST cancel claims 24, 34, and 43, and if applicant wants the subject matter considered, they should be submitted as (new) claims 68,69, and 70 respectively. For clarity, applicant should explain in his arguments that new claims 68,69, and 70 are corrected submissions of claims 24, 34, and 43, and explain in the arguments any changes; however, the claim listing MUST show the claims as new and without any claim markups.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

The request filed on September 28, 2007 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

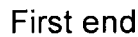
*Claims 18-21, 23, 27, 32-40 are*

~~Claim 18~~ is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Clark (US 3,819,034). (Ken)

Regarding claim 18, Clark discloses a method of packing a shipping container with a plurality of implements comprising the steps of: providing a plurality of implements, each implement comprising a handle (10) attached to a working end (11), the handle including a first end and a second end (see below), wherein each of the implements includes substantially a same first length, comprising a distance from a bottom surface of the working end to the second end of the handle, and a handle-attachment member (15) releasably securable to the second end of the handle; providing a shipping container (30,40); and disposing the plurality of implements, with

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5,013,007



Second end – tip of handle 10

Regarding claim 20, Clark further discloses that two or more of the implements comprise different working ends.

Regarding claim 21, Clark further discloses that the handle-attachment member is adapted to extend the implement to a second length comprising a second distance from the bottom surface of the working end to a top end of the handle-attachment member.

Regarding claim 23, Clark further discloses that the handle-attachment member comprises a threaded section (14) for mating with a threaded section disposed on the second end of the handle.

Regarding claim 27, Clark further discloses attaching the handle-attachment members to side surfaces of the handles before the disposing step.

Regarding claim 32, Clark further discloses that said handle-attachment members are clipped on the side surfaces of the handles.

Regarding claim 33, Clark further discloses that during the disposing step at least one working end is aligned with at least one second end.

Regarding claim 34, Clark further discloses that during the disposing step at least one working end is aligned with another working end.

Regarding claim 35, Clark further discloses that during the disposing step said at least one working end is vertically aligned with said at least one of another working end and said second end of another implement.

Regarding claim 36, Clark further discloses that during the disposing step the implements are stacked within the shipping container.

Regarding claim 37, Clark further discloses that the disposing step of the implements are aligned in parallel formation within the shipping container.

Regarding claim 38, Clark further discloses that after the disposing step the bottom surface of the working end is near one end of the shipping container and the second end of the handle is near an opposite end of the shipping container.

Regarding claim 39, Clark further discloses that a wall dimension of the shipping container is sized just larger than the first length.

Regarding claim 40, Clark further discloses that during the disposing step the handle is disposed along the wall dimension of the shipping container.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 28 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US 3,819,034) in view of Michelson et al. (US 6,902,060, hereinafter "Michelson").

Regarding claim 22, Clark discloses the invention as applied to claim 18 above, but fails to disclose that the handle-attachment member ranges in length from about 12 inches to about 20 inches.

Michelson teaches of a handle-attachment member (43) with a range length of about 12 inches to about 20 inches. (See col. 5, second paragraph).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of said range in Clark in view of Michelson in order to provide a reasonable length to operate said handle-attachment member.

Regarding claim 28, Clark discloses the invention as applied to claim 18 above, but fails to disclose that the second length is 70 inches or less.

Michelson teaches of a second length that is capable of 70 inches or less.



Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of said range in Clark in view of Michelson in order to provide a reasonable length to operate said handle-attachment member.

Regarding claim 44, Clark discloses the invention as applied to claim 18 above, but fails to disclose that the first length is within a range of about 40 inches to about 48 inches.

Michelson teaches of a first length within a range of about 40 inches to about 48 inches. (see abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of said range in Clark in view of Michelson in order to provide a reasonable length to operate said handle-attachment member.

Claims 24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark in view of Ogier (US 3,600,740).

Clark discloses the invention as applied in claim 18 above, but fails to disclose a length dimension of the shipping container being no greater than about 48 inches and 40 inches.

Ogier teaches of a similar device with a shipping container being no greater than about 48 inches. (See col. 2, lines 29-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of said shipping container length in Clark in view of Ogier in order to provide a reasonable length to use and carry the shipping container.

Claims 30, 31, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark in view of Carlson (US 3,359,929).

Clark discloses the invention as applied in claim 18 above, but fails to disclose placing and disposing the shipping container on a pallet, wherein said pallet is about 40 inches in length and where said pallet is sent to a destination.

Carlson teaches of a pallet of 40" x 48" used to support goods that are sent.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of a 40" x 48" pallet used for placement of goods that are sent to destinations in Clark in view of Carlson in order to provide an efficient mechanism for transport and handling of the invention during the shipping process to various locations for sale.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clark. Clark discloses the invention as applied to claim 18 above including the disposing of the implements within the shipping container, but fails to disclose a plurality of shipping containers. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have disclosed a plurality of shipping containers,

*or claim 41 below regarding claims 42 and 43*

*km*

since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

### ***Response to Arguments***

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

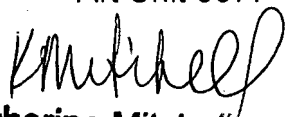
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes  
Examiner  
Art Unit 3677

/MM/

  
**Katherine Mitchell**  
Primary Examiner